

AMENDED IN ASSEMBLY JUNE 21, 2006

AMENDED IN SENATE APRIL 19, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 583

Introduced by Senator Figueroa

February 18, 2005

An act to add Section 2234.2 to the Business and Professions Code, and to amend Section 109335 of the Health and Safety Code, relating to cancer.

LEGISLATIVE COUNSEL'S DIGEST

SB 583, as amended, Figueroa. Cancer treatment.

~~Existing~~

(1) *Existing* law requires the Division of Medical Quality of the Medical Board of California to take action against a licensee under the Medical Practice Act who is charged with unprofessional conduct.

This bill would specify that a physician and surgeon who provides treatment to cancer patients is not subject to certain disciplinary action for unprofessional conduct on the basis that the treatment or advice rendered to the patient is alternative or ~~complimentary~~ *complementary* medicine, as defined, if that treatment or advice meets specified requirements, including not delaying traditional diagnosis and not causing death or serious bodily injury to the patient.

(2) *Existing law provides that the failure of any individual, person, firm association, or other entity representing himself, or itself, as engaged in the diagnosis, treatment, alleviation, or cure of cancer to comply with any of the regulations adopted under provisions of law relating to the regulation of the diagnosis, care, treatment, or cure of*

persons suffering from cancer is a misdemeanor and that a 3rd and subsequent violations is a felony.

This bill would, instead, provide that, with respect to a physician and surgeon engaged in the diagnosis, treatment, alleviation, or cure of cancer, the failure to comply with those regulations is unprofessional conduct, as defined, unless the physician and surgeon complies with the provisions above that would be added by this bill.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2234.2 is added to the Business and
2 Professions Code, to read:
3 2234.2. (a) Notwithstanding any other provision of law, a
4 physician and surgeon who provides treatment to cancer patients
5 shall not be subject to discipline pursuant to subdivision (b), (c),
6 or (d) of Section 2234 solely on the basis that the treatment or
7 advice he or she rendered to a patient is alternative or
8 complementary medicine if that treatment or advice meets all of
9 the following requirements:
10 (1) It is provided after informed consent and a good-faith
11 prior examination of the patient, and medical indication exists for
12 the treatment or advice, or it is provided for health or well-being.
13 (2) It is provided after the physician and surgeon has given the
14 patient information concerning conventional treatment and
15 describing the education, experience, and credentials of the
16 physician and surgeon related to the alternative or
17 complementary medicine he or she practices.
18 (3) It does not cause a delay in, or discourage traditional
19 diagnosis of, a condition of the patient.
20 (4) It does not cause death or serious bodily injury to the
21 patient.
22 (b) For purposes of this section, “alternative or complementary
23 medicine” means those health care methods of diagnosis,
24 treatment, or healing that are not generally used but that provide
25 a reasonable potential for therapeutic gain in a patient’s medical
26 condition that is not outweighed by the risk of the health care
27 method.

1 *SEC. 2. Section 109335 of the Health and Safety Code is*
2 *amended to read:*

3 109335. ~~The~~(a) *Except for a physician and surgeon to whom*
4 *subdivision (b) applies, the failure of any individual, person,*
5 *firm, association, or other entity representing himself, or itself, as*
6 *engaged in the diagnosis, treatment, alleviation, or cure of cancer*
7 *to comply with any of the regulations adopted under this article*
8 *and Article 1 (commencing with Section 109250) is a*
9 *misdemeanor. A third, and subsequent violations, of this section*
10 *is a felony.*

11 (b) *The failure of a physician and surgeon engaged in the*
12 *diagnosis, treatment, alleviation, or cure of cancer to comply*
13 *with any of the regulations adopted under this article and Article*
14 *1 (commencing with Section 109250) is unprofessional conduct*
15 *within the meaning of Section 2234 of the Business and*
16 *Professions Code, unless the physician and surgeon complies*
17 *with Section 2234.2 of the Business and Professions Code.*

18 ~~This~~

19 (c) *This article and Article 1 (commencing with Section*
20 *109250) shall not apply to any person who depends exclusively*
21 *upon prayer for healing in accordance with the teachings of a*
22 *bona fide religious sect, denomination, or organization, nor*
23 *practitioner thereof.*